

Senate Bill No. 319

Passed the Senate April 27, 2009

Secretary of the Senate

Passed the Assembly June 30, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 209 of the Code of Civil Procedure, relating to jury service.

LEGISLATIVE COUNSEL'S DIGEST

SB 319, Harman. Jury service.

Under existing law, a prospective trial juror who has been summoned for jury service and fails to attend as directed or respond to the court may be compelled to attend, as specified. In addition, after an order to show cause hearing, the court may find the prospective juror in contempt of court, which is punishable by fine, incarceration, or both. Until January 1, 2010, existing law permits the court, in lieu of imposing penalties for contempt, to impose reasonable monetary sanctions of no more than \$250 for a first violation, \$750 for a 2nd violation, and \$1,500 for the 3rd and any subsequent violation, upon a prospective juror who has failed to respond and who has not been excused, after first providing the prospective juror with notice and an opportunity to be heard, as specified.

This bill would require the 2nd summons to be issued no earlier than 90 days after the initial failure to appear. This bill would also extend the above provisions indefinitely by deleting the January 1, 2010, termination date.

The people of the State of California do enact as follows:

SECTION 1. Section 209 of the Code of Civil Procedure, as amended by Section 5 of Chapter 567 of the Statutes of 2006, is amended to read:

209. (a) Any prospective trial juror who has been summoned for service, and who fails to attend as directed or to respond to the court or jury commissioner and to be excused from attendance, may be attached and compelled to attend. Following an order to show cause hearing, the court may find the prospective juror in contempt of court, punishable by fine, incarceration, or both, as otherwise provided by law.

(b) In lieu of imposing sanctions for contempt as set forth in subdivision (a), the court may impose reasonable monetary sanctions, as provided in this subdivision, on a prospective juror who has not been excused pursuant to Section 204 after first providing the prospective juror with notice and an opportunity to be heard. If a juror fails to respond to the initial summons the court may issue a second summons indicating that the person failed to appear in response to a previous summons and ordering the person to appear for jury duty. The second summons may be issued no earlier than 90 days after the initial failure to appear. Upon the failure of the juror to appear in response to the second summons, the court may issue a failure to appear notice informing the person that failure to respond may result in the imposition of money sanctions. If the prospective juror does not attend the court within the time period as directed by the failure to appear notice, the court shall issue an order to show cause. Payment of monetary sanctions imposed pursuant to this subdivision does not relieve the person of his or her obligation to perform jury duty.

(c) (1) The court may give notice of its intent to impose sanctions by either of the following means:

(A) Verbally to a prospective juror appearing in person in open court.

(B) The issuance on its own motion of an order to show cause requiring the prospective juror to demonstrate reasons for not imposing sanctions. The court may serve the order to show cause by certified or first-class mail.

(2) The monetary sanctions imposed pursuant to subdivision (b) may not exceed two hundred fifty dollars (\$250) for the first violation, seven hundred fifty dollars (\$750) for the second violation, and one thousand five hundred dollars (\$1,500) for the third and any subsequent violation. Monetary sanctions may not be imposed on a prospective juror more than once during a single juror pool cycle. The prospective juror may be excused from paying sanctions pursuant to subdivision (b) of Section 204 or in the interests of justice. The full amount of any sanction paid shall be deposited in a bank account established for this purpose by the Administrative Office of the Courts and transmitted from that account monthly to the Controller for deposit in the Trial Court Trust Fund, as provided in Section 68085.1 of the Government Code. It is the intent of the Legislature that the funds derived from

the monetary sanctions authorized in this section be allocated, to the extent feasible, to the family courts and the civil courts. The Judicial Council shall, by rule, provide for a procedure by which a prospective juror against whom a sanction has been imposed by default may move to set aside the default.

Approved _____, 2009

Governor